

JEFFERSON COUNTY ATTORNEY'S OFFICE

Jefferson County Courthouse, Room 200

Post Office Box 351

Oskaloosa, Kansas 66066

Telephone: (785) 863-2251

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WORTHLESS CHECK PACKET

Step 1. Check that the County Attorney Can File Charges.

Not all worthless checks are recoverable through a criminal action. The County Attorney's Office considers every worthless check packet it receives and determines whether there is sufficient cause and evidence to file a criminal complaint. Check the following boxes if the statements by them are true.

- The check(s) was passed in Jefferson County, Kansas.
- The check(s) contains the check writer's machine-printed name and address (no starter checks).
- The issuance of the check(s) caused you to give up something of value (goods, services, property, etc.)

If you checked all three boxes above, GO to Step 2.

If you cannot check all three boxes, the Jefferson County Attorney's Office will not file a criminal complaint. If a worthless check was passed to you in a different county, contact the County Attorney's Office in that county. In cases where a criminal complaint will not be filed, you may be able to pursue a remedy through a civil action. Contact a private attorney for advice on filing a civil case for a worthless check.

Step 2. Complete the Worthless Checks – Offense Report (Page 3).

If you answered "NO" to all questions (1 through 9) at the top of the Worthless Checks – Offense Report, complete the page and GO to Steps 3-7.

If you answered "YES" to one or more of the questions (1 through 9), your case cannot be prosecuted. STOP. Contact a private attorney for advice on filing a civil case for a worthless check.

Step 3. Send a Demand Letter to the check writer at the address listed on the check(s). You can send a letter to the address you know the check writer receives mail at too, but you must send a demand letter to the address on the worthless check(s). A Demand Letter Template is attached to this packet (Page 6). Refer to it when creating your demand letter. Follow these guidelines:

- The Demand Letter MUST be addressed and mailed to the check writer (the person who signed the check) at the address printed on the passed check(s).

- The letter must be mailed via U.S. Post Office, postage prepaid, by Certified Mail, Restricted Delivery (*the addressee MUST sign for the letter*), and Return Receipt Requested.
- If the check writer picks up or claims the letter, you will receive a green Return Receipt from the Post Office. To be useful for prosecution, the addressee or check writer must have signed the Return Receipt. If the Return Receipt is signed by anyone else, legal notice is not good and you will need to resend the demand letter.
- If the check writer does not pick up or claim the letter, the post office will stamp it “Unclaimed” and return it to you. **Do not** open the returned letter. Keep it in the same condition as you received it from the post office.
- Kansas Law allows a service charge up to \$30.00. If you request more than \$30.00, the Jefferson County Attorney’s Office will not prosecute.
- If you already sent a demand letter to the check writer, make sure the mailing instructions listed above were followed. If they weren’t, send a new demand letter according to the mailing instructions above.

Step 4. Complete the Affidavit for Prosecution of a Worthless Check (Page 4). Do not sign it.

Step 5. Have the affidavit notarized (Page 4). Sign the Affidavit for Prosecution of a Worthless Check (from Step 4) in front of a Notary Public. They will affix their seal that they witnessed you attest to and sign the affidavit.

Step 6. Complete the Victim Statement (Page 5).

Step 7. Submit packet and documents to the Jefferson County Attorney’s Office:

- Original check(s) OR legal copy of the check(s)
- Worthless Checks – Offense Report
- USPS Return Receipt OR “Unclaimed” Certified Mail
- Affidavit for Prosecution of a Worthless Check (notarized)
- Victim Statement

Do not have any contact with, or accept any payment from the bad check writer after you have submitted a Worthless Check Packet to the Jefferson County Attorney’s Office.

The Jefferson County Attorney’s Office created this packet so businesses and individuals can report worthless checks passed in Jefferson County, Kansas. The process for filing criminal charges against someone for passing a worthless check is established by law. Follow the steps listed above, and the process will work.

If you have questions, contact the Jefferson County Attorney’s Office at 785-863-2251 or at countyattorney@jfcountyks.com.

Jefferson County Attorney's Office

Worthless Checks - Offense Report

PLEASE ANSWER THE FOLLOWING QUESTIONS, PRINT ALL INFORMATION IN DARK INK AND SIGN BELOW.

- | | | | |
|--|--|---|--|
| 1. Was check post-dated at time of acceptance? | <input type="checkbox"/> Yes <input type="checkbox"/> No | 6. Does this matter involve a two-party check? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Was check received as payment on an account? | <input type="checkbox"/> Yes <input type="checkbox"/> No | 7. Does the check involve an extension of credit? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Were you asked to hold the check? | <input type="checkbox"/> Yes <input type="checkbox"/> No | 8. Was the check marked "stop-payment"? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 4. Was check in payment of rent, other than deposit? | <input type="checkbox"/> Yes <input type="checkbox"/> No | 9. Was this a payroll check? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5. Does this matter involve a verbal or written contract or a sub-contracting agreement? | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

If you answered "NO" to all questions above, complete this page and the rest of the Worthless Check Packet.

A "YES" answer to any of the above questions indicates this is a civil matter and cannot be prosecuted. Contact a private attorney for advice on filing a civil case for a worthless check.

10. Name of business and address where the check was passed _____

11. Your name and address if different from above _____

12. Business Phone # _____

13. Date check(s) was passed _____

14. Name of the person(s) who accepted the check(s) _____

15. Can you identify the person who passed the check? Maybe Yes No

16. Did you accept the check believing it was good? Yes No

17. Was the person who passed the check the same person who signed the check? Yes No

18. Was the check signed in your presence? Yes No

19. Was the check made out before you saw it? Yes No

20. Names of witnesses to the check being passed: _____

21. Bad check writer's name: _____

22. Male _____ Female _____

23. White _____ Black _____ Other _____

24. Date of Birth _____ 25. Driver's License # _____

26. Height _____ Weight _____ Hair _____ Eyes _____

27. Peculiar marks or traits on passer: _____

28. Further information concerning the passer of the check: _____

29. What property/service was obtained with check(s)? _____

THE UNDERSIGNED STATES HE/SHE HAS ACTUAL KNOWLEDGE OF THE FACTS SET OUT ABOVE AND WILL, IF NECESSARY, BE A WITNESS IN COURT TO THE SAME.

Signature

Address

Phone

Date

AFFIDAVIT FOR PROSECUTION OF A WORTHLESS CHECK

STATE OF KANSAS, JEFFERSON COUNTY, SS:

I, _____, of lawful age, having been first duly sworn upon oath, depose and state that:

1. This Affidavit is made for demonstrating probable cause to issue a warrant for the arrest of: _____.
2. The attached check(s) was made, drawn, issued, or delivered or caused or directed to be made, drawn, issued or delivered to _____, and was personally received by _____ on the ____ day of _____, 20____, and that such check(s) was issued for the payment of money or its equivalent. And that such check(s) was purported to be drawn on a bank, credit union, savings and loan association or depository.
3. The check writer did not indicate by words or action that he/she had no deposit in or credit with said bank, or that he/she did not have sufficient funds in said bank for payment of the check. We were not requested to hold the check. The check was not postdated. The check was submitted to the bank during the usual course of business and was not held.
4. The check(s) was refused by the bank.
5. We sent a demand letter to the check writer at the address printed on the returned check via United States Post Office Certified Mail on the ____ day of _____, 20____ informing the check writer that the check(s) did not clear the bank, and if the check(s) was not paid within seven days, it would be submitted for prosecution. We also notified the check(s) writer by the following means: _____.
6. As of today, the check writer has not paid the check(s).
7. I am aware that under K.S.A. 21-3709, causing an unlawful prosecution for worthless checks is a Class A Misdemeanor punishable by up to one year imprisonment, and a fine up to \$2,500 plus costs of the unlawful prosecution. Causing an unlawful prosecution for worthless checks is filing this Affidavit for Prosecution of a Worthless Check on a check(s) that was accepted, knowing the same was postdated and such check, draft or order was presented for payment prior to the postdated date, or when the payee had knowledge, when such payee accepted such check, draft, or order, that there were no funds or insufficient funds in the hands of the drawee to pay such a check, draft, or order upon presentation and such check, draft or order was presented for payment prior to the date the maker informed the payee there would be sufficient funds.
8. A warrant is necessary to bring _____ before the court.
9. The above information is true to the best of my knowledge.

AFFIANT SAYS NOTHING FURTHER

Your Name (signature)

Company Name and Address

Phone Number

STATE OF KANSAS

ss:

COUNTY OF JEFFERSON

Signed and attested before me this _____ day of _____, 20____

Notary Public

My Appointment Expires:

VICTIM STATEMENT

1. Business and/or Name _____
Address: _____ City _____ State _____ Zip _____
Telephone No: Home: _____ Cell: _____ Work: _____

2. I have suffered financial losses as a result of the Defendant's actions as follows:

a. Nature of Loss (check if applicable)

- | | |
|---|--|
| <input type="checkbox"/> Missing Items | <input type="checkbox"/> Towing Charges |
| <input type="checkbox"/> Damaged Items | <input type="checkbox"/> Other (explain on back) |
| <input type="checkbox"/> Medical Expenses | |

b. Amount of Loss (list item and amount): _____

c. Items for which insurance claim was received (list item, amount, deductible, name and address of insurance): _____

3. I request restitution in the amount of \$ _____.

4. This crime has affected me and/or others as follows: _____

5. I believe the appropriate punishment for the Defendant would be:

- | | |
|---|--------------------------------------|
| <input type="checkbox"/> Jail | <input type="checkbox"/> Fine |
| <input type="checkbox"/> Probation | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Community Service Work | |

(You may indicate more than one of the above.)

6. I do do not wish to be notified of all hearings, which will take place in this case.

The above information is true and correct to the best of my knowledge and belief.

Victim Signature

DEMAND LETTER TEMPLATE

From: Merchant's Name
Merchant's Address
Merchant's City, State and Zip Code

Today's Date

To: Check Writer's Name
Check Writer's Address
Check Writer's City, State and Zip Code

Re: Check(s) No. _____, drawn on _____
on the account of _____
signed by _____
Driver's License No. _____
Amount of check \$ _____ Service Charge \$ _____*

*No more than \$30.00 per K.S.A. 21-3707

Dear Check Writer:

Please be advised that your bank has returned the above-referenced check without payment, for one or more of the following reasons:

- Account closed
- Insufficient funds
- Check was forged
- Check was stolen
- Unauthorized signature

You must make full payment of the check and service charge within seven (7) days of the receipt of this letter, by cashier's check, money order, or cash. If I do not receive full payment, the check and supporting information will be turned over to the Jefferson County Attorney's Office, Second Judicial District, for that office to determine if criminal charges will be filed.

Once turned over to the County Attorney's Office, I will be unable to stop prosecution or have the charges dismissed if they are filed.

I will not accept partial payments.

Please resolve this matter before it goes any further.

Sincerely,

[Signature]
[Check or Authorized Agent]